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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

EXAMINER

CHU, KIM KWOK

ART UNIT	PAPER NUMBER
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2653

31

DATE MAILED: 11/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/181,809

Applicant(s)

ISHII ET AL.

Examiner

Kim-Kwok CHU

Art Unit

2653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Amendment filed on 9/4/03 (paper 30).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All; b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☒ Interview Summary (PTO-413) Paper No(s). 29.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Response to Remarks

1. Applicant's Remarks filed on September 4, 2003 (paper 30) have been fully considered but they are not persuasive.

(a) Applicant states that the prior art of Michl does not teach an optical recording apparatus such as in claim 30 where "a focusing optical system that performs multilevel modulation of an azimuth of an optical recording layer" (page 17, lines 12 and 13, of the Remarks). Accordingly, Michl teaches that a polarized light beam irradiates on a birefringence materials (column 5, lines 30-40, 52-58). As a result, Michl's recording layer having birefringence property is used to store multilevel data by modulating (irradiating) it with the polarized light beam. Applicant's claimed feature "modulating the azimuth of an optical recording layer" is considered as Michl's information stored in an analog format in a birefringence form (column 5, lines 50 and 51; claim 1, last 7 lines). In addition, Applicant's claimed feature "a focusing optical system" is considered as Michl's polarized light beam generated by a light source and an inherent objective lens (Fig. 9 illustrated a focused laser light source); and

(b) Applicant states that the prior art's manner in which multilevel data storage is distinct from the manner recited in claim 30 because Michl teaches "writing laser beam so as to record at different power intensities" (page 17, lines 6-

10, of the Remarks). Accordingly, the prior art of Michl anticipates Applicant's claim 30 by irradiating a polarized light beam to a recording layer having birefringence property so that multilevel data is recorded.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

*A person shall be entitled to a patent unless --
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.*

3. Claims 30-34 are rejected under 35 U.S.C. § 102(b) as being anticipated by Michl et al. (U.S. Patent 4,551,819).

Michl teaches an optical recording apparatus having all of the elements and means as recited in claims 30-34. For example, Michl teaches the following:

(a) as in claim 30, a light source that generates recording light (Fig. 9);

(b) as in claim 30, a spatial optical modulator 19 that controllably rotates a polarization angle of the recording light (Figs. 5 and 6; column 2, lines 6-14; column 6, lines 39-41);

(c) as in claim 30, a focusing optical system that performs multilevel modulation of an azimuth of an optical recording layer within an optical medium by directing the recording light obtained through the spatial optical modulator to an optical recording medium (Fig. 9; abstract, lines 10 and 11);

(d) as in claim 31, the spatial optical modulator 19 controls a polarization angle of the recording light in response to recording information (Figs. 5 and 6; column 2, lines 6-14; column 6, lines 39-41);

(e) as in claim 32, the spatial optical modulator 19 is a polarization rotary device (Figs. 5 and 6);

(f) as in claim 33, a medium driving mechanism that rotates the optical recording medium (Fig. 9; medium driving mechanism is an inherent feature because the recording medium needs to be rotated);

(g) as in claim 33, a head moving mechanism that moves an optical head that includes the light source, the spatial optical modulator and the focusing optical system 30 (Fig. 9; inherent features to read/write information recorded on the medium); and

(h) as in claim 34, an optical recording medium 23 (Fig. 9).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-29 and 35-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leube et al. (U.S. Patent 5,251,197) in view of Michl et al. (U.S. Patent 4,551,819).

Leube teaches an optical recording medium very similar to the instant invention. For example, Leube teaches the following:

(a) as in claim 1, the optical recording medium comprises at least one optical recording layer 12 (Fig. 1);

(b) as in claim 1, the optical recording layer 12 including an optical recording material that changes a state of photo induced birefringence in response to a recording light 14 (Fig. 1);

(c) as in claim 1, a substrate which sustains the optical recording layer, wherein recorded information can be reproduced

from the optical recording medium (Fig. 1; substrate is an inherent feature of an optical recording medium);

(d) as in claim 2, the recording layer 2 has a refractive index expresses in variables of wavelength and thickness as $\Delta n * d = (m + 1/2) * \lambda$ (inherent feature of a half-wave plate as illustrated in equations 2 and 5 on pages 6 and 9 of the specification respectively);

(e) as in claim 3, the photo-induced birefringence is caused by a refractive index change (inherent feature of the anisotropic material which induces birefringence);

(f) as in claims 4, 5, 7, 8 and 57, the recording layer 12 comprises a liquid crystal polymer (azobenzene) comprises a side chain that includes a group which is photoisomerized (Fig. 1; column 2, line 51; azobenzene is a photoisomerized material);

(g) as in claims 6 and 9, the polymer comprises at least one kind of monomer-polymer azobenzene (inherent feature because monomer azobenzene is a required material for forming photoisomerization) and

(h) as in claims 10, the optical layer 2 has a disk shape recording medium (Fig. 1).

However, Leube does not teach the following:

(a) as in claim 1, the recording light is externally controlled from the optical recording medium to rotate a

polarization angle of the recording light;

(b) as in claim 1, a portion of the recording layer that changes a state of photo-induced birefringence substantially acting optically as a half-wave plate (phase difference between o and e is 180 degree); and

(c) as in claim 1, an azimuth of the half-wave plate within the optical recording medium is multilevel-modulated so that information is recorded on the optical recording medium by the recording light.

Michl teaches a recording method having the following:

(a) the polarization of a light beam generated from a laser source is externally rotated by a polarizer 19 (Figs. 5 and 9);

(b) the recording layer which acts as a half wave plate (column 10, lines 61-64); and

(c) an azimuth of the half-wave plate within the optical recording medium is multilevel-modulated so that information is recorded on the optical recording medium by the recording light (abstract, lines 10 and 11; column 15, lines 1-29).

A light beam generated from a laser source is not necessary traveling in a predetermined polarized mode. In other words, it is not linear/circular polarized. In order to restrict the light beam's polarization angle after it interacts with other optical devices, the light beam should be set to

have a known polarized mode first. For example, Michl's light beam is linear polarized by a polarizer device.

Therefore, for the advantage of detecting the polarization angle of a reflected (reproducing) light beam such as Leube's, it would have been obvious to one of ordinary skill in the art at the time of invention to set a predetermined polarized writing beam 14 first with an external polarizer similar to Michl's, because the known polarized writing beam 14 will react with the recording surface and then the polarization angle difference of the reflected light beam can be detected.

On the other hand, although Leube does not specify the phase angle as a result of the induced birefringence of his polymer polarizer, Michl teaches that the induced birefringence of his recording layer acts as a half wave plate. Hence, when there is an advantage of rotating a reflected light beam, for example, 180 degree mirror image of the of the incident light, in order to detect the data stored in the recording layer, it would have been obvious to one of ordinary skill in the art at the time of invention replace Leube's recording layer with Michl's recording layer so that the stored data can be read based the polarization angle of the reflected light beam.

Furthermore, to increase the storage capacity and to take the advantage of the polarized light to modulate a writing beam, it would have been obvious to one of ordinary skill in

the art to use Michl's polarizer so that Luebe's light beam can be multi-modulated to record multi-level data.

6. Claims 11-20 have limitations similar to those treated in the above rejection, and are met by the references as discussed above. Claim 11 however also recites the following limitation which is also taught by Michl:

(a) as in claim 11, an optical reflection layer formed on one surface of the optical recording layer.

Michl teaches the following:

(a) an optical reflection layer 24 formed on one surface of the optical recording layer 23 (Fig. 9; column 14, lines 5-7).

The reflection layer is an inherent feature of an optical recording medium such as Michl's, because it is needed to reflect the light beam back as a reproducing light beam for data detection.

7. Claims 21 and 58 have limitations similar to those treated in the above rejection, and are met by the references as discussed above. Claim 21 however also recites the following limitation which is also taught by Michl:

(a) as in claim 21, the optical recording medium acts as a quarter-wave plate.

Michl teaches the following:

(a) the media having the property of birefringence can be either acts as a quarter-wave or a half-wave plate (Fig. 7; column 13, lines 37-40; column 14, lines 49-54).

As an alternative choice of design, it would have been obvious to one of ordinary skill in the art at the time of invention to change the birefringence of Michl's recording layer as a quarter-wave plate so that the layer's refractive index is changed for providing a new set of multilevel data.

8. Method claims 22-25 are drawn to the method of using the corresponding apparatus claimed in claims 1 and 6. Therefore method claims 22-25 correspond to apparatus claims 1 and 6 and are rejected for the same reasons of obviousness as used above.

In addition, Leube also teaches the following limitations:

(a) as in claim 24, rotating the optical recording medium (Fig. 1; inherent feature because the recording medium needed to be rotate in order to access the recorded information); and

(b) as in claim 24, radiating the recording light along a diameter direction of the optical recording medium (Fig. 1; inherent feature because the recording light needed to be radiated along the diameter direction of the medium in order to record information); and

(c) as in claim 25, the optical element is formed in a position at least partially coextensive with an existing optical element in the optical recording medium (Fig. 1; half-wave plate is formed on the recording layer under the light beam).

9. Claims 26-29 have limitations similar to those treated in the above rejection(s), and are met by the references as discussed above. Claim 26 however also recites the following limitation which is also taught by Michl:

(a) as in claim 26, the optical recording medium acts as a quarter-wave plate.

Michl teaches that the media having the property of birefringence can be either acts as a quarter-wave or a half-wave plate (Fig. 7; column 13, lines 37-40; column 14, lines 49-54). Therefore, as an alternative choice of design, it would have been obvious to one of ordinary skill in the art at the time of invention to change the birefringence of Leube's recording layer as a quarter-wave plate so that the layer's

refractive index is changed for providing a new set of multilevel data.

10. Claims 35, 36 and 59 has limitations similar to those treated in the above rejection, and are met by the references as discussed above. In addition, Leube also teaches the following limitations:

(a) as in claim 35, the recording material stores multilevel (zero and 1) information (inherent feature).

11. Claims 37, 38 and 60 has limitations similar to those treated in the above rejection, and are met by the references as discussed above. Claim 37 however also recites the following limitation which is also taught by Michl:

(a) as in claim 37, the optical recording medium acts as a quarter-wave plate.

Michl teaches that the media having the property of birefringence can be either acts as a quarter-wave or a half-wave plate (Fig. 7; column 13, lines 37-41; column 14, lines 49-54). Therefore, as an alternative choice of design, it would have been obvious to one of ordinary skill in the art at the time of invention to change the birefringence of Leube's recording layer as a quarter-wave plate.

12. Claims 39 and 61 have limitations similar to those treated in the above rejection, and are met by the references as discussed above.

13. Method claims 40-42 are drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claims 40-42 correspond to apparatus claim 1 and are rejected for the same reasons of obviousness as used above.

In addition, Leube also teaches the following limitations:

(a) as in claim 41, the reproducing light has a light intensity smaller than that of the recording light (Fig. 1; inherent feature because the intensity of the reproducing light does not need to change the recording layer);

(b) as in claim 42, rotating the optical recording medium (Fig. 1; inherent feature because the recording medium needed to be rotate in order to access the recorded information); and

(c) as in claim 42, radiating the reproducing light along a diameter direction of the optical recording medium (Fig. 1; inherent feature because the reproducing light needed to be radiated along the diameter direction of the medium in order to access the recorded information).

14. Method claims 43-45 are drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claims 43-45 correspond to apparatus claim 1 and are rejected for the same reasons of obviousness as used above. In addition, Leube also teaches the following limitations:

- (a) as in claim 43, the recording material stores multilevel (zero and 1) information (inherent feature);
- (b) as in claim 44, the reproducing light has a light intensity smaller than that of the recording light (Fig. 1; inherent feature because the intensity of the reproducing light does not need to change the recording layer);
- (c) as in claim 45, rotating the optical recording medium (Fig. 1; inherent feature because the recording medium needed to be rotate in order to access the recorded information); and
- (d) as in claim 45, radiating the reproducing light along a diameter direction of the optical recording medium (Fig. 1; inherent feature because the reproducing light needed to be radiated along the diameter direction of the medium in order to access the recorded information).

Claim 43 however also recites the following limitations:

- (a) the optical recording medium acts as a quarter-wave plate.

Michl teaches that the media having the property of birefringence can be either acts as a quarter-wave or a half-

wave plate (Fig. 7; column 13, lines 37-41; column 14, lines 49-54). Therefore, as an alternative choice of design, it would have been obvious to one of ordinary skill in the art at the time of invention to change the birefringence of Leube's recording layer as a quarter-wave plate so that the layer's refractive index is changed for providing a new set of multilevel data.

15. Claims 46-48 have limitations similar to those treated in the above rejection, and are met by the references as discussed above. In addition, Leube also teaches the following limitations:

(a) as in claim 46, an analyzing unit 20 that detects a polarization angle of reproducing light transmitted by the optical element (Fig. 1);

(b) as in claim 47, rotating the optical recording medium (Fig. 1; inherent feature because the recording medium needed to be rotate in order to access the recorded information);

(c) as in claim 47, radiating the reproducing light along a diameter direction of the optical recording medium (Fig. 1; inherent feature because the reproducing light needed to be radiated along the diameter direction of the medium in order to access the recorded information); and

(d) as in claim 48, the optical recording medium 12 (Fig.

1).

16. Method claims 49-51 are drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claims 49-51 correspond to apparatus claim 1 and are rejected for the same reasons of anticipation (obviousness) as used above. In addition, Leube teaches the following:

(a) as in claim 50, an analyzing unit 20 that detects a polarization angle of reproducing light transmitted by the optical element (Fig. 1);

(b) as in claim 51, an optical recording medium;

(c) as in claim 50, a medium driving mechanism that rotates the optical recording medium (Fig. 1; medium driving mechanism is an inherent feature because the recording medium needs to be rotated); and

(d) as in claim 50, a head moving mechanism that moves an optical head that includes the light source, the spatial optical modulator and the focusing optical system (Fig. 1; inherent feature of Leube's optical head which houses above claimed light source, modulator and focusing element).

Claim 50 however also recites the following limitations:

(a) the optical recording medium acts as a quarter-wave plate.

Michl teaches that the media having the property of

birefringence can be either acts as a quarter-wave or a half-wave plate (Fig. 7; column 13, lines 37-41; column 14, lines 49-54). Therefore, as an alternative choice of design, it would have been obvious to one of ordinary skill in the art at the time of invention to change the birefringence of Leube's recording layer as a quarter-wave plate so that the layer's refractive index is changed for providing a new set of multilevel data.

17. Claim 52 has limitations similar to those treated in the above rejection, and is met by the references as discussed above. In addition, Michl also teaches the following limitations:

(a) as in claim 52, a focusing optical element that irradiates an optical recording medium 24 with reproducing light (Fig. 9 illustrated a focused laser light source).

Furthermore, Leube also teaches the following:

(b) as in claim 52, an analyzing unit 20 that detects a polarization angle of reproducing light acted on by the optical recording medium (Fig. 1).

18. Method claim 53 is drawn to the method of using the corresponding apparatus claimed in claim 1. Therefore method claim 53 corresponds to apparatus claim 1 and is rejected for the same reasons of obviousness as used above.

In addition, Leube teaches the following:

(a) as in claim 53, forming an optical element on the optical recording medium by the illumination having an azimuth corresponding to a polarization angle on the optical recording medium (Fig. 1; optical elements which induces birefringence is formed in the recording layer).

19. Claim 54, 55 and 56 has limitations similar to those treated in the above rejection, and are met by the references as discussed above.

In addition, Leube teaches the following:

(a) as in claim 54 forming an optical element on the optical recording medium by the illumination having an azimuth corresponding to a polarization angle on the optical recording medium (Fig. 1; optical elements which induces birefringence is formed in the recording layer);

(b) as in claim 55, the optical element acts on reproducing light to adjust a polarization angle of the reproducing light (Fig. 1; the reflected/reproducing light is rotated by induced birefringence).

(c) as in claim 55, adjust a polarization angle of the reproducing light by an amount greater than a difference between a polarization angle of the recording light and a reproducing light (Fig. 1; inherent feature because the reflected light is being rotated furthermore by the induced birefringence) and

(d) as in claims 53 and 54, determining a polarization angle of reproducing light acted on by the optical element (Fig. 1; detector 20 detects polarization angle).

20. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any response to this action should be mailed to:

Commissioner of Patents and Trademarks Washington, D.C.
20231 Or faxed to:

(703) 872-9306 (for formal communications intended for
entry. Or:

(703) 746-6909, (for informal or draft communications,
please label "PROPOSED" or "DRAFT")

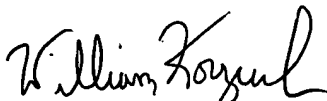
Hand-delivered responses should be brought to Crystal Park
II, 2021 Crystal Drive, Arlington. VA., Sixth Floor
(Receptionist).

Any inquiry of a general nature or relating to the status
of this application should be directed to the Group
receptionist whose telephone number is (703) 305-4700.

Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Kim CHU
whose telephone number is (703) 305-3032 between 9:30 am to
6:00 pm, Monday to Friday.

Kim-Kwok CHU

Examiner AU2653
November 12, 2003
(703) 305-3032


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